

REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. Claims 1-42 remain pending in the case.
Claims 1-42 are rejected.

35 U.S.C. §112, second paragraph

Claims 6, 19, 28, 33 and 39 are rejected under 35 U.S.C. §112, second paragraph, as it is asserted that Claims 6, 19, 28, 33 and 39 are indefinite.

Specifically, Claims 6, 19 and 33 are rejected because it is asserted that "a packet scheduler" is hardware and is not 'computer readable code' (see Office Action mailed March 6, 2007, page 2, section 2). Applicants respectfully direct the instant specification that recites in part that "[i]nterleaver 350 is a schedule adapter that, according to one embodiment, may be a hardware device well-known in the art, or it may, according to another embodiment, be a packet scheduler that consists of computer-readable code residing in a memory of sender system 305 and executed by a processor residing at interleaver 350" (page 8, lines 10-14; emphasis added). Accordingly, Applicants respectfully submit that the claim limitation "said packet scheduler being computer-readable code" is definite and satisfies 35 U.S.C. §112, second paragraph. Therefore, Applicants respectfully submit that the basis for rejecting Claims 6, 19 and 33 under 35 U.S.C. § 112, second paragraph, is traversed.

Claims 28 and 39 are rejected because it is asserted that "it is unclear what is meant by 'essentially'" (see Office Action mailed March 6, 2007, page 2, section 2). Applicants respectfully note that Claim 12 also includes the term "essentially".

Applicants respectfully direct the Examiner to the MPEP that recites in part: “[t]he transitional phrase ‘consisting essentially of’ limits the scope of a claim to the specified materials or steps ‘and those that do not materially affect the basic and novel characteristic(s)’ of the claimed invention” (MPEP 2111.03; emphasis in original). “By using the term ‘consisting essentially of,’ the drafter signals that the invention necessarily includes the listed ingredients and is open to unlisted ingredients that do not materially affect the basic and novel properties of the invention. A ‘consisting essentially of’ claim occupies a middle ground between closed claims that are written in a ‘consisting of’ format and fully open claims that are drafted in a ‘comprising’ format” (MPEP 2163(II)(A)(1)).

Accordingly, Applicants respectfully submit that the term “essentially” is clear and consistent with the guidelines established in the MPEP, and is definite and satisfies 35 U.S.C. §112, second paragraph. Therefore, Applicants respectfully submit that the basis for rejecting Claims 28 and 39 under 35 U.S.C. § 112, second paragraph, is traversed. Moreover, since no grounds of rejection remain for Claim 28, Applicants respectfully submit that Claim 28 is in condition for allowance.

35 U.S.C. §102(e)

Claims 16-20, 22-26, 29-34, 36-39, 41 and 42 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,289,054 by Rhee, hereinafter referred to as the “Rhee” reference. Applicants have reviewed the cited reference and respectfully submit that the embodiments of the present invention as recited in Claims 16-20, 22-26, 29-34, 36-39, 41 and 42 are not anticipated by Rhee for at least the following rationale.

Applicants respectfully direct the Examiner to independent Claim 16 that recites that an embodiment of the present invention is directed to (emphasis added):

A schedule adapter for receiving media packets in a first order and transmitting said media packets in a second order wherein said second order is selected to reduce distortion with respect to said first order based on estimated channel characteristics.

Independent Claim 29 recites similar limitations. Claims 17-20 and 22-26 that depend from independent Claim 16, and Claims 30-34, 36-39, 41 and 42 that depend from independent Claim 29 also include these limitations.

MPEP §2131 provides:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). … “The identical invention must be shown in as complete detail as is contained in the … claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Applicants respectfully submit that Rhee is very different from the claimed embodiments. Applicants understand Rhee to teach: “[m]ethods and systems for performing packet loss recovery when transmitting compressed video over a lossy packet-based network include transmitting packets of compressed video data from a sender to a receiver. In response to detecting lost or erroneously received packets, the receiver transmits a retransmission request to the sender. In response to receiving the retransmission request, the sender changes the periodic temporal dependency distance of a frame to be transmitted such that the frame depends on the frame associated with the retransmitted packets” (Abstract; emphasis added). In particular, Applicants

respectfully submit that Rhee does not teach, describe or suggest “[a] schedule adapter for receiving media packets in a first order and transmitting said media packets in a second order” (emphasis added) as claimed.

With reference to Figure 4 of Rhee, Applicants understand Rhee to disclose a system for performing the transmission and retransmission of data packets over a lossy network. Receiver 402 notifies sender 400 of packet loss (col. 5, lines 36-50). Sender 400 then retransmits lost packets according to a retransmission-based FESCU (col. 6, line 26, through col. 7, line 10) or a FEC-based FESCU (col. 7, lines 11-63). Applicants understand Rhee to disclose transmission of packets and retransmission of a subset of the packets that were lost.

First, Applicants respectfully submit that packets and repair packets as disclosed in Rhee are not “said media packets” as claimed. In contrast, the repair packets are comprised of a subset of the initial packets. Moreover, Rhee does not teach, describe or suggest that the order of the repair packets is different than the order of the initial transmission of the packets. Furthermore, even accepting that all packets are lost and require resending, e.g., the repair packets comprise all initial packets, Rhee does not teach, describe or suggest that the repair packets are transmitted in an order different than the initial transmission of the packets.

Applicants respectfully submit that Rhee does not teach, describe or suggest “[a] schedule adapter for receiving media packets in a first order and transmitting said media packets in a second order” as claimed (emphasis added). Accordingly, Applicants respectfully assert that the claimed

embodiments are not anticipated by Rhee, since Rhee does not show the identical invention in as complete detail as is contained in the claims.

Applicants respectfully assert that Rhee does not teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 16 and 29, that these claims overcome the rejection under 35 U.S.C. § 102(e), and that these claims are thus in a condition for allowance. Therefore, Applicants respectfully submit that Rhee also does not teach or suggest the additional claimed features of the present invention as recited in Claims 17-20 and 22-26 that depend from independent Claim 16, and Claims 30-34, 36-39, 41 and 42 that depend from independent Claim 29. Therefore, Applicants respectfully submit that Claims 17-20, 22-26, 30-34, 36-39, 41 and 42 also overcome the rejection under 35 U.S.C. § 102(e), and are in a condition for allowance as being dependent on an allowable base claim.

35 U.S.C. §103(a)

Claims 1-16, 21, 27, 35 and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rhee in view of U.S. Patent No. 7,058,054 by Clark, hereinafter referred to as the "Clark" reference. Claims 35 and 40 depend on independent Claim 29. Applicants have reviewed the cited reference and respectfully submit that the embodiments of the present invention as recited in Claims 1-16, 21, 27, 35 and 40 are patentable over Rhee in view of Clark for at least the following rationale.

As described above, Applicants respectfully submit that Rhee is very different from the claimed embodiments. Applicants understand Rhee to teach the retransmission of lost packets over a lossy network. In particular, Applicants respectfully submit that Rhee does not teach, describe or suggest

"[a] schedule adapter for receiving media packets in a first order and transmitting said media packets in a second order" (emphasis added) as recited in independent Claim 16, and similar recitations of independent Claims 1 and 29.

First, Applicants respectfully submit that packets and repair packets as disclosed in Rhee are not "said media packets" as claimed. In contrast, the repair packets are comprised of a subset of the initial packets. Moreover, Rhee does not teach, describe or suggest that the order of the repair packets is different than the order of the initial transmission of the packets. Furthermore, even accepting that all packets are lost and require resending, e.g., the repair packets comprise all initial packets, Rhee does not teach, describe or suggest that the repair packets are transmitted in an order different than the initial transmission of the packets. In contrast, by disclosing that statistics/gatherer reporter 412 of Figure 4 periodically sends the receiver reports packets, Rhee appears to teach away from transmitting packets in a first order an in a second order.

Therefore, Applicants respectfully submit that Rhee does not teach, describe or suggest "[a] schedule adapter for receiving media packets in a first order and transmitting said media packets in a second order" as claimed (emphasis added).

Applicants respectfully submit that the combination of Rhee and Clark does not render the claimed embodiments unpatentable, because Clark does not overcome the shortcomings of Rhee. Applicants understand Clark to disclose a subjective quality monitoring system for packet based multimedia signal transmission systems (Abstract). Applicants respectfully submit that

Clark does not teach, describe or suggest “[a] schedule adapter for receiving media packets in a first order and transmitting said media packets in a second order” as claimed (emphasis added).

Applicants respectfully assert that the combination of Rhee and Clark does not teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 1, 16 and 29, that these claims overcome the rejection under 35 U.S.C. § 103(a), and that these claims are thus in a condition for allowance. Therefore, Applicants respectfully submit that the combination of Rhee and Clark also does not teach or suggest the additional claimed features of the present invention as recited in Claims 2-15 that depend from independent Claim 1, Claims 21 and 27 that depend from independent Claim 16, and Claims 35 and 40 that depend from independent Claim 29. Therefore, Applicants respectfully submit that Claims 2-15, 21, 27, 35 and 40 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on an allowable base claim.

CONCLUSION

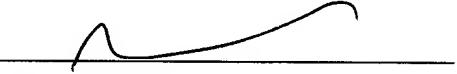
In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims. Based on the arguments presented above, Applicants respectfully assert that Claims 1-42 overcome the rejections of record, and therefore Applicants respectfully solicit allowance of these claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER BLECHER LLP

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John P. Wagner, Jr.
Reg. No. 35,398

Westridge Business Park
123 Westridge Drive
Watsonville, CA 95076
(408) 377-0500
Facsimile: (831) 722-2350